



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

AUG - 2 2012

Laurie Lee Wymer, Treasurer  
Committee to Elect Ted Waga III  
325 Wesley Drive, Apt. 3222  
Mechanicsburg, PA 17055  
Windsor, PA 17366

RE: MUR 6549

Dear Ms. Wymer:

On April 10, 2012, the Federal Election Commission notified you of a complaint filed against you and the Committee to Elect Ted Waga III (the "Committee") alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On July 17, 2012, based upon the information contained in the complaint and information provided by Mr. Waga on behalf of the Committee, the Commission decided to dismiss the complaint and closed its file in this matter.

A copy of the Commission's Factual & Legal Analysis is enclosed for your information and future reference. The Commission encourages you to review the Commission's Factual & Legal Analysis, which sets forth the statutory and regulatory provisions considered by the Commission in this matter. The Commission reminds you and the Committee, pursuant to 2 U.S.C. § 441d and 11 C.F.R. § 110.11(c)(3), concerning the use of the appropriate "stand by your ad" message in campaign radio advertisements, to take steps to ensure that your conduct is in compliance with the Act and Commission regulations. For further information on the Act, please refer to the Commission's website at [www.fec.gov](http://www.fec.gov) or contact the Commission's Public Information Division at (202) 694-1100.

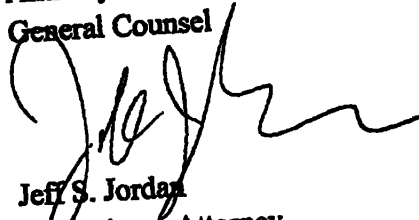
Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003).

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If you have any questions, please contact Kim Collins, the paralegal assigned to this matter, at (202) 694-1650.

Sincerely,

Anthony Herman  
General Counsel



BY: Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination and  
Legal Administration

Enclosure  
Factual & Legal Analysis

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENTS:** Ted Waga  
Committee to Elect Ted Waga III  
and Laurie Lee Wymer, as Treasurer

**MUR 6549**

**I. INTRODUCTION**

This matter was generated by a complaint filed by John MacDonald alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act") by Ted Waga and the Committee to Elect Ted Waga and Laurie Lee Wymer, in her official capacity as treasurer. It was scored as a low-rated matter under the Enforcement Priority System ("EPS"), a system by which the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Factual Background**

In this matter, the complainant, John MacDonald, asserts that Ted Waga, a candidate for Congress in Pennsylvania's Fourth Congressional District,<sup>1</sup> and his campaign committee, the Committee to Elect Ted Waga III and Laurie Lee Wymer, in her official capacity as treasurer, (the "Committee") violated the Act and Commission regulations by failing to include the required disclaimers in certain campaign communications. According to the complainant, a radio advertisement promoting Waga did not contain a statement of who paid for the advertisement, as required by 2 U.S.C. § 441d(a)(1) and 11 C.F.R. § 110.11(b)(1), and Waga did not include a verbal statement such as "My name is Ted Waga, candidate for Congress, and I approve this message," or a "reasonable variation on that statement," pursuant to 2 U.S.C.

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<sup>1</sup> According to the disclosure database, Ted Waga is registered as a candidate in the Nineteenth Congressional District of Pennsylvania.

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1 § 441d(d)(1)(A) and 11 C.F.R. § 110.11(c)(3). Compl. at 1. The complainant contends that,  
2 although the advertisement includes a statement made by Waga identifying himself — “I’m Ted  
3 Waga, and I’m running for Congress” — it does not include a statement of Waga’s approval of  
4 the advertisement or who paid for it.

5 In the Response, Waga, who replied on behalf of the Committee and himself, states that,  
6 in his radio advertisement, he “was the only speaker in the spot, clearly identified [himself], did  
7 not refer to any other candidate, and was clear about the office [he] was running for.” Resp. at 1,  
8 ¶ 1. He also claims that because the advertisements were set to air during hours that he was on  
9 duty as a police officer, he did not have the opportunity to listen to the advertisements. *Id.*

10 Additionally, Waga states that, after receiving the Complaint, he contacted the radio  
11 station sales manager and the sales manager told Waga that the “paid for” tag was added to the  
12 end of the advertisement only a few days into Waga’s campaign. Letter from Nikki Hilton,  
13 Cumulus Broadcasting, to Ted Waga, attached to Response. Waga also states that, because the  
14 complainant did not provide the dates and times of the advertisements that were allegedly  
15 missing the disclaimer, he could not say with certainty whether any of the advertisements were in  
16 fact missing the disclaimer. Resp. at 1, ¶ 2. Waga goes on to say, however, that if an  
17 advertisement was mistakenly aired without the required disclaimer, the radio station quickly  
18 corrected the mistake. *Id.*

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**B. Legal Analysis**

Under the Act, if a candidate or an authorized political committee of a candidate pays for and authorizes a communication transmitted through any broadcasting station, such communication must clearly state that the communication was paid for by such authorized political committee. 2 U.S.C. § 441d(a)(1) and 11 C.F.R. § 110.11(b)(1). In addition, such communication broadcast on the radio must contain a statement made by the candidate that identifies the candidate and states that the candidate approves the communication. 2 U.S.C. § 441d(d)(1)(A) and 11 C.F.R. § 110.11(c)(3)(i).

Waga attaches to his Response three recordings of advertisements. Each of them begins with his statement, "I'm Ted Waga, and I'm running for Congress," and ends with, "Paid for by: Committee to Elect Ted Waga." The advertisements, however, do not include a statement made by Waga stating that he approves the message. These recordings demonstrate that the ads did not fully comply with the applicable disclaimer requirements. See 2 U.S.C. § 441d(d)(1)(A) and 11 C.F.R. § 110.11(c)(3).

Nonetheless, the advertisements contained sufficient identifying information to prevent the public from being misled as to who paid for them. Moreover, the record evidence shows that, although not fully compliant, the Committee attempted to quickly take remedial action. Thus, in furtherance of the Commission's priorities and resources, the Commission dismissed this matter and closed the file. See *Heckler v. Chaney*, 470 U.S. 821 (1985). Additionally, the Commission reminded Ted Waga and the Committee to Elect Ted Waga III and Laurie Lee Wymer, in her official capacity as treasurer, of the requirements under 2 U.S.C. § 441d and

- 1 11 C.F.R. § 110.11, concerning the use of appropriate disclaimers on campaign radio
- 2 advertisements.

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